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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/227,749

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HM12/0831

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EXAMINER

PESELEV, E

ART UNIT

PAPER NUMBER

1623

DATE MAILED:

08/31/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/227,749

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7/26/01
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 8-30 is/are pending in the application.
- Of the above claim(s) 18-30 is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 8-17 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Claims 18-30 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b) as being drawn to a non-elected invention. Election was made **without** traverse in Paper No. 5.

Applicant's election without traverse of Group I, claims 1-17, species macrolide in Paper No. 5 is acknowledged.

Claims 8-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shor et al (U.S. Patent No. 5,424,187) in combination with Koskiniemi et al (Eur Neurol 1996; 36:160-163).

Shor et al disclose the use of a macrolide alone or in combination with an antiinflammatory agent for the treatment of Chlamydia pneumoniae infection (column 2, lines 67-68 and column 3, lines 1-10) but do not disclose the treatment of said infection in central nervous system (CNS). However, since Koskiniemi et al disclose Chlamydia pneumoniae infections associated with CNS, a person having ordinary skill in the art at the time the instant invention was made would have been motivated to treat any disease which involves infection by C. pneumoniae of CNS with a macrolide or a macrolide in combination with an antiinflammatory agent because the results obtained from such treatment would have been expected.

Applicant's arguments filed July 26, 2001 have been fully considered but they are not persuasive insofar as the above rejection relates to the claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

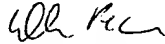
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elli Peselev whose telephone number is (703) 308-4616. The examiner can normally be reached on Monday to Friday from 9.00 a.m. to 6.00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Geist, can be reached on (703) 308-1701. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.


ELLI PESELEV
PRIMARY EXAMINER
GROUP 1200